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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

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December 6, 1977

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Request for Comments on Draft OMB Bulletin,
"Guidelines for the Use of Consultant Services"

Attached is a copy of the subject draft bulletin for your review and comment. This draft is based largely upon the responses received to the President's memorandum of May 12, 1977, regarding the use of consultants.

Our review of these data showed widely varying criteria for the use of consultants among agencies, the need for a standard definition of "consultant services," and the need for uniform management controls to assure that abuses in the use of consultants do not occur. The draft bulletin has been developed to correct these inconsistencies.

We would appreciate a response by Friday, February 10, 1978.

Sincerely,

James T. McIntyre, Jr.
Acting Director

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DRAFT

BULLETIN NO. 78-

November 4, 1977

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Guidelines for the Use of Consultant Services

1. Purpose. This Bulletin establishes guidelines to be followed by executive branch agencies in determining the appropriate use of consultant services.

2. Background. The President, in a memorandum of May 12, 1977 (Attachment) asked the heads of agencies to review the consultant service arrangements of their organizations to assure that they were both appropriate and necessary. As requested, the agencies reported the results of their review to the Director, Office of Management and Budget (OMB), along with the criteria used in determining when it is appropriate to use consultant services. While many agencies have excellent management controls to assure that abuses do not occur, there was a lack of uniformity of definition, criteria, and management controls among the agencies.

Based largely upon the data received from the agencies, this Bulletin establishes a standard definition, uniform criteria for determining the appropriate use of consultant services and outlines management controls required of the agencies.

3. Coverage.

a. The provisions of this Bulletin apply to the following arrangements for consultant services:

- (1) Personnel appointments;
- (2) Procurement contract; and
- (3) Advisory committee membership.

b. Statutory requirements, such as those in 5 U.S.C. 3109 for personnel appointments, will govern in those instances.

4. Definition. As used for administrative direction in this Bulletin, Consultant Services means those personal and professional services of a purely advisory nature relating to the development of agency policy and does not include performance of operating functions nor supervision of those functions. Specifically excluded are commercial and industrial products and services (see OMB Circular No. A-76) and the conduct of research (see the National Science Foundation Annual Survey of Federal Funds for Research, Development and Other Specific Activities). Included are those governmental functions of agency administration and management, and agency program management. These services are normally provided by persons and/or firms which may or may not be considered to be experts or specialists in the field, but who are generally considered to have knowledge and ability distinctively valuable to the agency. (See Appendix for examples of the type of services that are intended to be included and excluded from the definition.)

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5. Basic Policy

- a. Consultant services will not be used to make policy or management decisions as these will be retained directly by agency officials.
- b. Consultant services will be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be entered into.
- c. Consultant services will not be used as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.
- d. Former Government employees will not be given preference in consultant service arrangements.
- e. Consultant services will not be used under any circumstances to aid in influencing or enacting legislation.
- f. Grants will not be used as a legal instrument for consultant service arrangements.
- g. OMB Circular No. A-63, Advisory Committee Management, governs policy and procedures regarding advisory committee membership.
- h. The Federal Personnel Manual, Chapter 304, governs policy and procedures regarding personnel appointments.

6. Guidelines for Use of Consultant Services. Consultant service arrangements may be used to:

- a. Perform work which is essential to the mission of the agency.
- b. Secure specialized opinions or professional or technical advice not available within the agency or another agency.
- restrictive* c. Obtain outside points of view to avoid too limited judgment on critical issues.
- d. Obtain advice regarding developments in industry, university, or foundation research.
- e. Obtain the opinion of noted experts whose national or international prestige is essential to the success of important projects.
- f. Secure citizen advisory participation in developing or implementing Government programs that by their nature or by statutory provision call for such participation.
- g. Obtain the services of special personnel who are not needed full-time or who cannot serve full-time or regularly.

7. Management Controls

- a. Each agency will assure for all consultant service arrangements that

(1) Every requirement for consultant services is appropriate and fully justified in writing. Such justification will also certify that a complete search of available agency studies, reports, or similar information has been conducted, that such information differs from current requirements, and what new information is to be collected.

(2) Work statements for consultant services are specific, complete and specify a fixed period of performance for the service to be provided;

(3) In the case of contracts for consultant services, contracts are competitively awarded to the maximum extent to ensure that costs are reasonable;

(4) Appropriate disclosure and warning provisions are given to the performer(s) to avoid conflict of interest; and

(5) Consultant service arrangements are properly administered and monitored to ensure that performance is satisfactory.

b. Each agency will establish specific levels of delegation of authority to approve the use of consultant services, based on the policy and guidelines contained in this Bulletin. Approval of all consultant arrangements should be required at a level above the organization sponsoring the activity.

8. Data Requirements. By October 1, 1978, the following data systems will have the capability to provide information on consultant service arrangements within the executive branch:

a. Central Personnel Data File (CPDF), operated by the Civil Service Commission, will have data on personnel appointments, segregating consultants (as defined in this Circular), experts and advisory committee members (as defined in OMB Circular No. A-63).

b. Federal Procurement Data System (FPDS) will have data on contract arrangements.

c. Advisory committee data will continue to be maintained in accordance with OMB Circular No. A-63.

9. Reporting Requirements. Agencies will submit to OMB on June 30, 1978, a report which contains:

a. The types of consultant service arrangements in effect; and

b. The number of such arrangements and the total dollars (outlays) involved.

This is a one-time report.

10. Inquiries. All questions or inquiries should be submitted to the Office of Management and Budget, Administrator for Federal Procurement Policy. Telephone Number (202) 395-4677.

Attachment

APPENDIX

This appendix contains examples of services which are intended to be included or excluded from the definition of consultant services.

Services Included

- Advice on discriminatory practices in labor;
- Advice on organizational structure and methods;
- Advice on artistic and cultural matters;
- Advice on and analysis of electric power projects;
- Evaluation of the effectiveness of agency publications;
- Review of mail handling procedures;
- Devising and planning the conduct of census enumerations;
- Analysis of the impact of programs;
- Advice on maritime labor policy and maritime market development;
- Advice on legal and technological problems in patent and trademark examinations;
- Policy and program analysis evaluation and advice;
- Services of a Federal Funded Research and Development Center;
- Services of grant peer review panelists;
- Preparation of environmental impact statements that include advice or recommendations.

Services Excluded

- Automatic data processing/keypunching services;
- Financial audits performed by Certified Public Accountants;
- Architect and engineering services directly related to a particular structure;

- Purchase of real or personal property;
- Stenographic services;
- Direct operation and management of Government-owned facilities;
- Installation or testing of equipment;
- Services performed by technicians or non-professional persons to meet unusual or peak work demands;
- Consultant-type services provided by one Federal entity for another Federal entity under a Memorandum of Understanding or similar arrangement;
- Physicians, dentists, and nurses providing medical services;
- Employee training and executive development;
- Legal research services that do not include advice or recommendations;
- Editing and proofreading services;
- Educational-vocational guidance counseling for veterans;
- Court reporting;
- Translation services;
- Advisory services provided directly to the public or foreign governments as part of an agency's programs of assistance.

THE WHITE HOUSE

WASHINGTON

May 12, 1977

MEMORANDUM FOR THE HEADS OF

EXECUTIVE DEPARTMENTS AND AGENCIES

In a continuing search for ways to improve the efficiency and effectiveness of the executive branch, I have become aware of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government. A recent survey by a Senate subcommittee of the use of personal and non-personal consultant and expert services identified more than 30,000 contract arrangements and 10,777 individual appointments. Additionally, there are such services provided by grant arrangements and through advisory committee memberships.

There has been, and continues to be, evidence that some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly.

This must be corrected without delay.

Some areas of concern include:

-- Use of consultants to perform work of a policymaking or managerial nature which should be retained directly by agency officials.

-- Repeated appointments or contract extensions which raise questions whether the work is better suited to other more appropriate arrangements.

-- Use of consultants to provide studies and analyses which have no useful impact on agency operations, either because the subject itself is non-essential or because there are no disciplined agency procedures to (a) check priorities and (b) insure follow-up on the results.

-- Use of consultant arrangements as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

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employees may be improperly favored for individual or contracted consulting arrangements.

-- Intra-agency duplication of consultant efforts, especially in large, multi-agency departments such as Defense and Health, Education and Welfare, because there is no central coordination of consulting efforts or dissemination of results.

-- Conflicts of interest between consultants' advice and their other outside financial interests and affiliations.

In order to improve the use of consultants, I want you to:

1. Review all data that is available or can be readily assembled to describe:

-- The principal purposes for which consulting services are being used;

-- The types of consulting arrangements being used (Civil Service Commission appointment, contract, grant, advisory committee membership, other); and

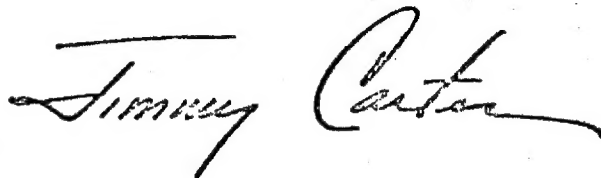
-- The number of such arrangements in effect and the total dollars involved.

2. Review and revise the management controls and decision criteria used for consultants which will effectively prevent abuses.

3. Eliminate those consultant arrangements found to be neither appropriate nor necessary.

4. Report the results of the above items to the Director of the Office of Management and Budget by June 30, 1977.

I am asking the Director of the Office of Management and Budget to review your reports and, where appropriate, to suggest additional measures that you might apply to strengthen your management control of the purposes and arrangements for consulting and expert services.



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